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U. S. COURTS

JAN 23 1997

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CAMERON S. BURKE
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

In re:) Chapter 11
) Case No. 96-3050
Sawtooth Enterprises, Inc.)
) **ORDER**
Debtor.)
_____)

This matter having come before the Court on January 13, 1997 based upon the Debtor's Motion to Assume or Reject Certain Real Property Leases. Appearances at the hearing were as follows: Joseph M. Meier on behalf of the Debtor in Possession; Art Berry on behalf of Arthur Berry & Co.; David Wishney on behalf of the Sonna Building Associates; Alan Cameron on behalf of Black Bear, Inc.; Derrick O'Neill on behalf of the Margaret Mead Trust; Pat Collins on behalf of Bank of America; and Terry Myers on behalf of Paul Reed, a potential buyer. Three objections were filed to the assumption by Sonna Building Associates, Black Bear, Inc. and Bank of America.

At the hearing the objection of Sonna Building Associates, landlord of a parcel of property located at 908 Main Street, Boise, Idaho was resolved and withdrawn subject to the execution of a personal guarantee of the lease by the proposed Assignee's guarantor, Denise Erickson. The objection to the assumption and assignment by Bank of America

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was also resolved and withdrawn based on the stipulations contained in this order and the order approving the sale. Black Bear, Inc.'s objection is resolved pursuant to the terms of this order, and good cause appearing therefore;

IT IS HEREBY ORDERED as follows:

1. That the assumption and assignment described in this order under 11 U.S.C. §365(a) and the assignment under 11 U.S.C. §365(f)(2) is conditioned upon the closing of the sale of the property to Timothy Wells, which sale of assets has been approved by this Court, and which closing contemplates the payment of pre-petition lease arrearages by the Buyer, payment of post-petition lease arrearages from the proceeds of the sale and then payment by the Buyer of any lease obligations accruing on either lease after the entry of this order.

2. Debtor is authorized to assume the lease under 11 U.S.C. §365(a) of the Sonna Building dated August 31, 1994 between Sonna Building Associates, as landlords and Sawtooth Enterprises, Inc. d/b/a The Buckin' Bagel as tenant together with all addendums, including the First Addendum to Lease dated August 23, 1994; the Second Addendum of Lease dated September 19, 1994; and the Third Addendum to Lease dated September 6, 1994 subject to the terms of this order. The terms of this order provide the cure of defaults and adequate assurance of the future performance as required by 11 U.S.C. §365(b). A copy of this lease and addendums are attached as Exhibit "A".

3. Subject to the execution of a personal guarantee of the subject lease by the Assignee's Guarantor, Denise Erickson, Debtor is also authorized to immediately assign this lease between it and Sonna Building Associates, and the lease is hereby assigned

under 11 U.S.C. §365(f) pursuant to 11 U.S.C. §365(f) to Timothy Wells, Buyer of the personal property, with Mr. Wells to be liable for all further obligations under the lease with the exception of those obligations of the Debtor-in-Possession to pay certain arrearages described below. Mr Wells also shall receive any deposits currently held by Landlord.

4. Debtor is authorized to assume the lease under 11 U.S.C. §365(a) of the Bushnell Building dated June 25, 1993 between Don Riddle, landlord, who assigned his rights to Black Bear, Inc. and Sawtooth Enterprises, Inc. d/b/a The Buckin' Bagel as tenant together with any addendum thereto, subject to the terms of this order. The terms of this order provide the cure of defaults and adequate assurance of the future performance as required by 11 U.S. C. §365(b). A copy of this lease and addendum are attached as Exhibit "B".

5. Debtor is also authorized to immediately assign this lease with Black Bear, Inc. pursuant to post petition arrearages described below. In addition the Assignee and Black Bear, Inc. have agreed as follows, and it is so ordered as follows:

a. That upon assignment of the lease assignee shall immediately exercise option #2 and option #3 described in paragraph 4, page 2 of the Lease dated June 25, 1993 and that no reimbursement for improvements will be owed under paragraph 18 of said lease;

b. Assignee, Timothy Wells, shall deposit with Black Bear, Inc., on or before the date of assumption of lease, an additional security deposit of \$5,998.98 cash which represents the last three months rent under the lease;

c. Assignee shall fully comply to Black Bear Inc's satisfaction with all City

of Ketchum snow removal ordinances;

d. Black Bear, Inc. and Timothy Wells have agreed that Timothy Wells is granted an additional two year option to lease the facility for two additional years at the end of the term of the lease being assumed and assigned hereunder with the rent for that two year period to be negotiated between Black Bear, Inc. and Timothy Wells in good faith at such later date.

6. That with respect to both leases Debtor-in-Possession and the Estate, pursuant to the terms of 11 U.S.C. §365(k), is relieved from all liability for any breach of contract or lease occurring after the date of this order.

IT IS FURTHER ORDERED, that the Debtor is required to pay from the proceeds from the sale of its personal property to Timothy Wells the following lease defaults pursuant to 11 U.S.C. §365(b):

1. To Sonna Building Associates the sum of \$3,515.60 for December, 1996, legal fees of \$694.00 and 17 days of January rent in the amount of \$1,927.91 for a total of \$6,137.51.

2. To Black Bear, Inc. the sum of \$1,118.60 for December, 1996 rent plus the amount accruing from January 1, 1996 through the date of the entry of this order determined by the following formula: \$1,061.81 times the number of days in January until the entry of this order divided by 26 plus any reasonable accrued late fees and past due expenses which shall be documented by the landlord prior to payment of these obligations. these obligations shall be paid from the proceeds to be received from the Buyer and shall be disbursed from those proceeds.

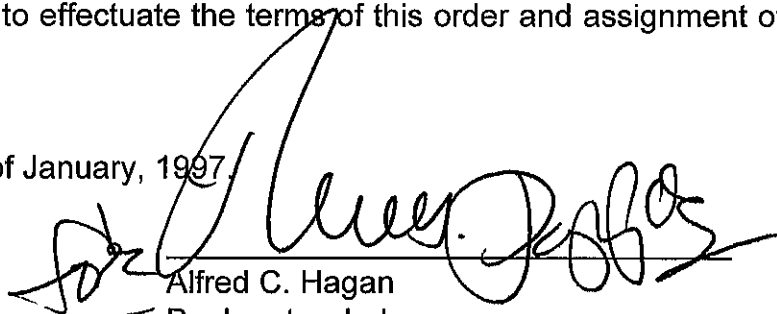
3. Timothy Wells, at closing of the sale between Wells and Sawtooth Enterprises, Inc. shall pay the following to the landlord or to the Debtor at closing.

4. To Sonna Building Associates the sum of \$5,102.02 for all rent accrued and late fees through November 27, 1996 representing pre-petition amounts due and owing to the landlord. In addition Buyer shall pay all rent or other obligations accruing on the lease after the entry of this order.


5. To Black Bear, Inc. the sum of \$101.69 for all rent accrued through November 27, 1996 representing pre-petition amounts due and owing to the landlord. In addition Buyer shall pay all rent or other obligations accruing on the lease after the entry of this order.

IT IS FURTHER ORDERED that the Buyer, Landlords and Debtor-in-Possession shall execute all documents to effectuate the terms of this order and assignment of the lease.

DATED this ^{23rd} day of January, 1997.


Alfred C. Hagan
Bankruptcy Judge

APPROVED AS TO FORM:


Tim Wells

David Wishney, Attorney for
Sonna Building Associates

Pat Collins, Attorney for
Bank of America

Mark Manweiler, Attorney for
Black Bear, Inc.

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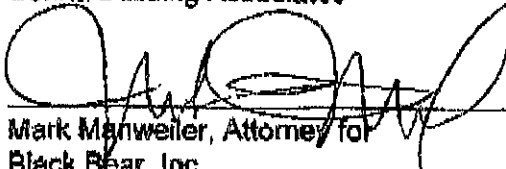
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